United Nations A/HRC/39/54/Add.2

General Assembly

Distr.: General
8 October 2018

Original: English

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights on his mission to the Syrian Arab Republic*

Note by the Secretary-General

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy, on his mission to the Syrian Arab Republic, submitted in accordance with Human Rights Council resolutions 27/21 and 36/10.

During his visit, the Special Rapporteur met with a wide range of government officials, permanent representatives and representatives of business associations, United Nations agencies and civil society.

The focus of his visit was to examine the impact of unilateral coercive measures on the enjoyment of human rights in the Syrian Arab Republic. In his report, the Special Rapporteur describes that impact and the impediments identified by civil society and humanitarian actors operating in that country and concludes with recommendations for making the existing humanitarian exemptions available under such measures more workable.

* The present report was submitted after the deadline to reflect the most recent developments.

GE.18-16679(E)
1816679

Please recycle

Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights on his mission to the Syrian Arab Republic*

Contents

		Page
I.	Introduction	3
II.	Overview of the humanitarian and human rights situation regarding sanctions	3
III.	Overview of the unilateral coercive measures on the Syrian Arab Republic	5
	A. Human rights obligations of sanctioning countries	6
	B. Humanitarian exemptions	7
IV.	Unintended negative consequences of sanctions	7
	Reported difficulties in making use of humanitarian exemptions	8
V.	Proposals	12
VI.	Conclusions and recommendations	14

* Circulated in the language of submission and Arabic only.

I. Introduction

1. The Special Rapporteur conducted an official visit to Damascus from 13 to 17 May 2018. He held meetings with ministers, deputy ministers and senior officials of the Ministry of Foreign Affairs and Expatriates, the Ministry of Economy and Foreign Trade, the Ministry of Local Administration and Environment, the Ministry of Social Affairs and Labour, the Ministry of Transport, the Ministry of Agriculture and Agrarian Reform, the Ministry of Electricity and the Ministry of Health. He also met with the leadership of the Planning and International Cooperation Commission, the Central Bureau of Statistics and the Chamber of Commerce and Industry, as well as with the Governor of the Central Bank of Syria. He engaged with representatives of civil society and humanitarian organizations and independent experts. Finally, the Special Rapporteur met with diplomatic missions in Damascus and Beirut. He is also grateful to the Economic and Social Commission for Western Asia for its briefings prior to his visit.

2. The Special Rapporteur expresses his gratitude to the Government of the Syrian Arab Republic for the invitation to visit the country and for the openness and readiness with which it facilitated the meetings during his mission. He also thanks the United Nations Resident Coordinator Office, the members of the United Nations country team and the Office of the United Nations High Commissioner for Human Rights for their invaluable support.

3. In the present report, the Special Rapporteur discusses the impact of unilateral coercive measures on the enjoyment of human rights in the Syrian Arab Republic and considers the difficulties in making use of humanitarian exemptions under those measures. He concludes with recommendations on how to minimize the impact of unilateral coercive measures on Syrians, and how existing exemptions could be better implemented.

4. The Special Rapporteur would like to clarify from the outset that, while his mandate refers to "unilateral coercive measures", understood as transnational, non-forcible coercive measures, and while "sanctions" normally refers to those enacted by the Security Council pursuant to Chapter VII of the Charter of the United Nations, he uses in the present report the expressions "unilateral coercive measures", "unilateral sanctions" and simply "sanctions" loosely and interchangeably.

II. Overview of the humanitarian and human rights situation regarding sanctions

5. The humanitarian needs of the people of the Syrian Arab Republic continue to be immense. The Office for the Coordination of Humanitarian Affairs has estimated that 6.1 million children and young adults require educational support, including 1.75 million children out of school, and that one third of all schools in the country have been destroyed or damaged, with many more being used as temporary shelters.[1] Around 4.2 million people require adequate shelter, as an estimated one third of all the housing has been destroyed. Some 14.6 million people lack access to safe drinking water, including 7.6 million in acute need.

Medical conditions

6. The World Health Organization (WHO) reported that approximately 11.3 million Syrians lacked access to adequate health care and that one in three children was not receiving life-saving vaccines, a decline in vaccination rates from 95 per cent in 2006 to only 60 per cent in 2016.[2] This decline has led to the reappearance of previously eradicated

[1] United Nations, Office for the Coordination of Humanitarian Affairs, "Sector needs", 2018 Syrian Humanitarian Needs Overview database. Available at https://hno-syria.org/#sector-needs.

[2] World Health Organization, "Syrian Arab Republic: annual report 2016", available at www.who.int/hac/crises/syr/sitreps/syria_annual-report-2016.pdf.

diseases, including poliomyelitis, typhoid, measles and rubella.[3] Vaccines require a cold supply chain, and the shortage of refrigerators or power for refrigeration means that not enough doses are available. Unsanitary conditions and limited access to safe water and functional sewage systems contribute to the rise of diseases.

Food insecurity

7. An estimated 6.5 million Syrians are food-insecure, and an additional 4 million are at risk of becoming so, representing nearly half the population. It is also estimated that 4.3 million women and children require nutritional support. Local food production from 2006 to 2011 was relatively stable, and the Syrian Arab Republic was the only country in the Middle East to be self-sufficient in terms of food production. During that period, the Syrian Arab Republic had a thriving agricultural sector that contributed about 21 per cent of its gross domestic product (GDP) and employed 17 per cent of the labour force.[4] The food production market was controlled by the Government, food was affordable, and the daily caloric intake was on a par with that in many western countries.[5] Food production has declined since 2011, however, and the Syrian Arab Republic relies on food imports nowadays. In addition, oil and economic embargoes have impaired the ability of the country to purchase food on the international market, and the financial embargo prevents it from paying for whatever it can afford to import. Furthermore, the declining economy makes subsidizing food more difficult.

Economic situation

8. Prior to 2011, the Syrian economy was one of the best performing in the region, with a growth rate averaging 4.6 per cent per annum from 2008 to 2010.[6] From 2011 to 2016, however, the rate became negative, falling by an average of 10.8 per cent annually, with drops of more than 22 per cent in 2012 and 2013.[7] The total GDP of the Syrian Arab Republic has reportedly fallen by between one half and two thirds since 2011. Foreign currency reserves have been depleted, and international financial and other assets remain frozen. In 2010, 45 Syrian liras were exchanged for one dollar; by 2017, the rate had fallen to 515 liras to the dollar.[8]

9. Economic deterioration has severely harmed the employment rate. The working age population has also decreased by 2 per cent annually, corresponding to an estimated net decrease of 264,000 individuals per year from 2010 to 2015. Overall, the unemployment rate increased from 8.6 per cent in 2010 to a disastrous 52.9 per cent in 2015, a 44.3 percentage point change.[9]

Inflation

10. The difficult economic situation is compounded by the declining purchasing power of Syrians, which has reduced access to food and other needed goods.[10] Inflation in the Syrian Arab Republic from 2000 to 2009 was low compared with other countries in the region and averaged 4.4 per cent, but rose rapidly after 2011, with the consumer price index

[3] Gerlant van Berlaer and others, "Diagnoses, infections and injuries in Northern Syrian children during the civil war: a cross-sectional study", *PLoS ONE*, vol. 12, No. 9 (September 2017).

[4] Food and Agriculture Organization of the United Nations (FAO) and World Food Programme (WFP), *FAO/WFP Crop and Food Security Assessment Mission to the Syrian Arab Republic* (Rome, 2016). Available at https://reliefweb.int/sites/reliefweb.int/files/resources/a-i6445e.pdf.

[5] Office for the Coordination of Humanitarian Affairs, "Sector needs", 2018 Syrian Humanitarian Needs Overview database.

[6] Trading Economics, "Syria GDP annual growth rate: 2008–2017", Indicators: Countries database. Available at https://tradingeconomics.com/syria/gdp-growth-annual.

[7] Ibid.

[8] See www.xe.com/currencycharts/?from=USD&to=SYP&view=10Y.

[9] World Bank, *The Toll of War: The Economic and Social Consequences of the Conflict in Syria* (2017), p. 68. Available at https://openknowledge.worldbank.org/handle/10986/27541.

[10] Rune Friberg Lyme, *Sanctioning Assad's Syria: Mapping the Economic, Socioeconomic and Political Repercussions of the International Sanctions Imposed on Syria Since March 2011* (Copenhagen, 2012), pp. 41–70.

increasing by approximately 291 per cent between 2011 and 2018.[11] Between 2008 and 2011, annual food inflation in the Syrian Arab Republic averaged 12 per cent. Beginning in 2012, however, it increased dramatically, reaching an all-time high of 121 per cent in 2013 and dropping to about 30 per cent in 2018.[12] The price of some food items increased eightfold during that period. This rapid rise in costs is particularly hard on Syrians living on fixed incomes, who are by far the most important segment of the income-earning population.

Agricultural production

11. International sanctions have led to a marked reduction in the availability of crop protection chemicals, fertilizers, seeds and other agricultural inputs. This, together with sanctions on the energy and water sectors, have contributed to a reduction in the production of food and fodder.

III. Overview of the unilateral coercive measures on the Syrian Arab Republic

12. Sanctions by the European Union and the United States of America against the Syrian Arab Republic have been described as some of the most complicated and far-reaching sanction regimes ever imposed.[13] They are more severe than those previously applied to the Sudan.[14] United States sanctions, first applied in December 1979,[15] amended with comprehensive measures in May 2004[16] and strengthened again in 2011,[17] are all-encompassing and include trade restrictions, financial sanctions and an arms embargo, as well as travel restrictions and asset freezes on individuals from the Syrian Arab Republic.

13. United States measures have been applied by at least five governmental and intergovernmental entities, including the Office of Foreign Assets Control of the Department of Treasury, the Department of Commerce (through the Export Administration Regulations), the Department of State (through the International Traffic in Arms Regulations), the Financial Crimes Enforcement Network and the Financial Action Task Force (which deals with money laundering). United States sanctions prohibit investments in the Syrian Arab Republic, direct and indirect exports (including re-exports), sales to the United States, trade in petroleum products, the use of the United States dollar or any financial transaction connected to the United States, among others.[18]

14. United States sanctions have an extraterritorial effect. Unlike European Union sanctions, which are limited in scope, United States sanctions apply to any transaction that involves a connection with the United States (for example, non-Americans transacting in goods with more than 10 per cent worth of content made in the United States, or the use of United States dollars as the transaction currency).

15. European Union measures include an asset freeze and travel ban on 259 people and 67 entities, as well as an oil embargo, restrictions on certain investments, a freeze of the assets held by the Central Bank of Syria in the European Union and export restrictions on

---

[11] Trading Economics, "Syria consumer price index (CPI), 2008–2017", Indicators: Countries database. Available at https://tradingeconomics.com/syria/consumer-price-index-cpi.

[12] Trading Economics, "Syria food inflation, 2008–2017", Indicators: Countries database. Available at https://tradingeconomics.com/syria/food-inflation.

[13] Justine Walker, "Study on humanitarian impact of Syria-related unilateral restrictive measures", report prepared for the Economic and Social Commission for Western Asia, May 2016, p. 6. Available at www.antikrieg.eu/aktuell/un_study_syria.pdf.

[14] Ibid., p. 25.

[15] See www.state.gov/j/ct/list/c14151.htm.

[16] United States of America, Syria Accountability and Lebanese Sovereignty Restoration Act of 2003, Law No. 108-175. Available at www.congress.gov/bill/108th-congress/house-bill/1828.

[17] United States, Department of Treasury, Office of Foreign Asset Control, "Syria sanctions program", 2 August 2013. Available at www.treasury.gov/resource-center/sanctions/Programs/Documents/syria.pdf. See also www.state.gov/e/eb/tfs/spi/syria/.

[18] See www.treasury.gov/resource-center/sanctions/Programs/pages/syria.aspx.

equipment and technology that might be used for internal repression and equipment and technology for the monitoring or interception of Internet and telephone communications.[19]

16. In addition, Australia, Canada, Japan, Norway, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland and the League of Arab States have applied, inter alia, financial sanctions, asset freezes, travel restrictions and arms embargoes on the Syrian Arab Republic.

17. As a result, anyone seeking to conduct international business with the Syrian Arab Republic must comply with a global network of regulators in multiple jurisdictions. For example, compliance with European Union sanctions for a British company entails compliance with both the European Union and the United Kingdom regimes, as well as with United States sanctions with extraterritorial effect. While the European Union provides exemptions for humanitarian purposes to its broad restrictions, such exemptions are limited in the United Kingdom to organizations receiving funding from the United Kingdom, the European Union or European Union member States. Other actors need to obtain a licence from both the Export Control Organisation and the Office of Financial Sanctions Implementation. Furthermore, even inadvertent violations of any provision of counter-terrorism sanction regimes are strictly prohibited and prosecuted, as intent is not necessary to constitute a violation.[20]

A. Human rights obligations of sanctioning countries

18. Under Chapter VII of the Charter, the Security Council is specifically authorized to apply sanctions in order to maintain or restore international peace and security. There have been repeated calls for States to avoid applying sanctions unilaterally, including in General Assembly resolution 39/210, in which the Assembly reaffirmed that developed countries should refrain from threatening or applying trade restrictions, blockades, embargoes and other economic sanctions, incompatible with the provisions of the Charter and in violation of undertakings contracted, multilaterally and bilaterally, against developing countries as a form of political and economic coercion that affected their economic, political and social development. The Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993 were more specific, as the World Conference called upon States to refrain from any unilateral measure not in accordance with international law and the Charter that created obstacles to trade relations among States and impeded the full realization of the human rights set forth in the Universal Declaration of Human Rights and international human rights instruments, in particular the rights of everyone to a standard of living adequate for their health and well-being, including food and medical care, housing and the necessary social services (see A/CONF.157/23, para. 31).

19. In a report to the Human Rights Council, the United Nations High Commissioner for Human Rights identified a number of limitations to the application of sanctions. He stated that any sanctions must be imposed no longer than necessary, be proportional and be subject to appropriate human rights safeguards, including human rights impact assessments and monitoring conducted by independent experts. He added that the positive impact that sanctions imposed with the objective of protecting human rights could be reasonably expected to have must outweigh the negative impact, taking into account the views of the population suffering under the human rights violations that had given rise to the sanctions and the impact on the most vulnerable parts of society. Finally, he stated that, in that context, it had to be borne in mind that targeted sanctions aimed at applying pressure on specific decision makers bearing responsibility for the human rights situation typically had a less harmful impact on the population as a whole than measures targeting the economy as a whole (see A/HRC/19/33, para. 38).

[19] European Council, "Syria: EU extends sanctions against the regime by one year", press release, 28 May 2018. Available at www.consilium.europa.eu/en/press/press-releases/2018/05/28/syria-eu-extends-sanctions-against-the-regime-by-one-year.

[20] See www.gov.uk/government/publications/financial-sanctions-syria.

B. Humanitarian exemptions

20. In his report, the High Commissioner for Human Rights urged States to adopt measures ensuring that essential supplies, such as medicines and food, were not used as tools for exerting political pressure, and that under no circumstances should people be deprived of their basic means of survival. Those considerations should also apply in the case of an armed conflict, in accordance with international humanitarian law (ibid., para. 42).

21. To ensure that the obligations to protect the human rights of Syrians under sanction are met, United States and European Union sanction regimes include provisions that allow the import of humanitarian goods or establish a licensing system for goods or services intended for humanitarian purposes. Under the United States regime, exemptions from United States assets control sanctions and export regulations may be obtained through general or specific licences. General exemptions concerning certain categories of items may also be sought. General licences provide broad waivers to existing sanctions, while specific ones are limited to specific situations. However, no exemptions are allowed under sanctions arising from the designation by the United States of the Syrian Arab Republic as a State sponsor of terrorism. As those sanctions prohibit transactions with listed persons or entities, a transaction with a company that has a shareholder deemed to be connected with the Government could result in prosecution. Yet, a consequence of years of sanctions is that most, if not all, major Syrian companies that remain in business have ties of some sort with government officials.

22. The United States regime includes a general licence for the official business of the United Nations,[21] provided that agreements with contractors or grantees are first cleared by the United States and with the caveat that transactions with designated Syrians are prohibited. General licences have also been issued to facilitate the work of humanitarian non-governmental organizations (NGOs), for food and medicine supplies, but specific limitations apply, including the prohibition to violate any other United States sanction. Applications for licences for certain medicines, medical devices, telecommunication-related items and goods related to civil aviation safety are favourably considered.

23. The availability of licences notwithstanding, to date, none has been granted to the Government of the Syrian Arab Republic. At a minimum, both the United States and the European Union would have to agree to grant such licences. The suggestion by source countries that no licence has been granted because no request has been formally made is paradoxical, as it ignores the fact that humanitarian exemptions could have been made more broadly available in regulations by removing the need for a licence in humanitarian cases and more explicitly unblocking related financial transfers. The establishment of humanitarian licences, together with related transfer authorizations, for Syrian governmental agencies operating in humanitarian sectors, could be a confidence-building measure that would demonstrate to all parties that the welfare of the Syrian people is being addressed.

IV. Unintended negative consequences of sanctions

24. Despite the efforts to implement so-called "smart" sanctions that allow for humanitarian exemptions, the current sanction regimes have contributed to the suffering of the Syrian people. While sanctions have not caused the current humanitarian crisis, it is undisputable that, contrary to their intent, they have contributed to worsening the humanitarian situation.

[21] United States, Administrative Committee of the Federal Register, *Code of Federal Regulations*, title 31, chap. V, sect. 542.513, para. (a).

Reported difficulties in making use of humanitarian exemptions

25. Humanitarian exemptions have proved extremely difficult to use for humanitarian actors, and nearly impossible for those without an international presence. Civil society and humanitarian actors reported a number of difficulties to the mandate holder. It is worth noting that many of the challenges that they face echo those addressed in greater detail in the 2016[22] and 2017[23] studies prepared for the Economic and Social Commission for Western Asia.

Confusion navigating sanction regimes

26. Since 2011, only United Nations agencies and the largest international humanitarian actors have been able to establish functional banking relationships and obtain the necessary exemptions and licences to conduct their operations in the Syrian Arab Republic. A very large Syrian-based humanitarian organization continues to face difficulties with importing medicines and medical devices and receiving donations from international sources. Numerous small and medium-sized humanitarian organizations and civil society actors have felt overwhelmed by the hurdles to overcome to receive humanitarian supplies and, in some cases, did not know where to begin. The issue of the high legal fees for applying for licences in Brussels and Washington, D.C was raised. The inability to make use of donor funds for operations in the Syrian Arab Republic was also reported, partly because of the inability to transfer money into the Syrian Arab Republic, as available mechanisms are not publicized or easily found.

Difficulties obtaining exemption licences

27. Extensive confusion was reported around the process for obtaining exemption licences. While United Nations actors and the largest international NGOs have been able to meet their needs, other actors described being confused or overwhelmed by the process. European Union licences and the need to engage with national authorities in addition to the European Union (through its office in Beirut) were seen as excessive, as was the need to ensure compliance with at least four national regulatory agencies for United States licences.

28. The high cost of legal and other professional services to obtain licences was raised by smaller actors, which noted that such costs were not provided for in their projects, and that they were often out of proportion to the value of the goods that they sought.

29. The very broad definition of dual-use goods was also criticized, as it includes pipes, water pumps and many kinds of essential construction equipment. There appeared to be no mechanism by which humanitarian actors could seek to provide input to the list, making it necessary for each NGO to apply for an individual licence. A proposal was made for the creation of a public whitelist of approved items, to avoid the need for a multiplicity of licences.

Financial restrictions

30. Financial sanctions against the Syrian Arab Republic are comprehensive. There are sanctions against all State-owned banks, in addition to the Central Bank, as well as on the use of United States dollars, European Union credit facilities and the development of new partnerships (correspondent banking relationships) between banks based in the European Union and Syrian financial institutions. All financial transactions involving the United States, including credit card transactions, are prohibited. Financial restrictions can appear in anti-money-laundering and counter-terrorism financing laws and anti-corruption regulations, and may be triggered by transactions with counterparties that appear on antiterrorism sanction lists. Even private Syrian banks not directly subject to sanctions may have investors that are on those lists, which may not be easily verifiable.

[22] Walker, "Study on humanitarian impact of Syria-related unilateral restrictive measures".

[23] Justine Walker, "Study examining viable banking and payment options for the movement of international humanitarian funds into Syria", report prepared for the Economic and Social Commission for Western Asia (unpublished).

31. There is no clarity as to the level of due diligence expected of exporters or financial intermediaries. As sanctions are applied according to the legal principle of "strict liability", it is not enough to argue that there was no intent or knowledge of any violation. If a violation is uncovered, all connected actors are liable to be punished.

32. With the Syrian Arab Republic listed as a State sponsor of terrorism, as well as numerous government officials and business persons, there is significant risk that a transaction may inadvertently be connected to a listed person.

33. The strict nature of United States sanctions contributes to the "chilling effect". Penalties of up to $250,000 per civil violation and $1 million per criminal violation, with the possibility of imprisonment, act as a particular deterrent, especially in view of the strict liability principle. Consequently, the argument that goods were intended for humanitarian purposes would not be considered if a technical violation was found. Non-United States banks have paid billions of dollars in sanctions-related penalties, mostly to United States regulators.[24]

34. Numerous aid groups reported that the inability to transfer money into the Syrian Arab Republic had prevented them from being able to pay salaries to local staff, thereby severely limiting their ability to operate within the Syrian Arab Republic. Workarounds have included sending money to a neighbouring country, and then bringing cash across the border in vehicles, or making use of informal money traders. One NGO reported that its long-standing European bank required extensive documentation that funds would not be used in the Syrian Arab Republic. It was suggested that, as a result, some civil society actors would be forced to mislead financial institutions in order to operate, despite the apparent "humanitarian exemptions".

35. The licensing system was reported by one NGO to be so strict that it was forced to obtain a licence for each project that it was involved in, and donors were trying to limit exposure by funding only small projects, rather than multi-year plans. This dramatically limited the ability of the NGO to plan its operations and reduced its effectiveness. The ambiguity has even affected United Nations staff, who reported being refused bank accounts or mortgages from European banks when the word "Syria" appeared in their job titles.

Hawala as an alternative

36. In the absence of functioning banking alternatives, informal money traders, known as "hawaladars", have been used by humanitarian actors to move funds across borders and throughout the Syrian Arab Republic. The hawala system, however, raises serious concerns. Hawala transfers are also used by smugglers, money launderers and, potentially, as criminal and terrorist financing channels.[25] Civil society actors reported difficulties auditing financial transactions that had been made through that system, creating concerns with donors and limiting their ability to raise funds.

"Chilling effect"

37. The most serious challenge facing humanitarian actors in the Syrian Arab Republic is that the complexity of the overlapping sanction regimes has created so much doubt and uncertainty on how to comply with all possible measures that banks, exporters, transportation companies and insurance companies have refused to conduct business in the Syrian Arab Republic. While the current sanction regimes contain in theory useable exemption mechanisms, the fact that only the largest international organizations are able to make use of them after seven years is evidence of the need to reform the system. This problem is particularly acute for banks, which rely on their reputation and client trust to operate. An inadvertent violation, leading to a public investigation, can be devastating, even if the bank is eventually cleared of any wrongdoing.

[24] Walker, "Study on humanitarian impact of Syria-related unilateral restrictive measures", p. 16.

[25] Beechwood International, *Technical Assessment: Humanitarian Use of Hawala in Syria* (London, 2015), p. 8. Available at www.cashlearning.org/downloads/beechwood-technical-assessment-syria-31-july-15.pdf.

38. Similarly, international exporters have avoided entering into new contracts in the Syrian Arab Republic, in view of their inability to find shipping options and banking possibilities and of a general fear of receiving payments from the Syrian Arab Republic.[26]

Medical care and supplies

39. The Syrian Arab Republic provides universal, free health care to all its citizens. Before the crisis, the Syrian Arab Republic enjoyed one of the highest levels of health care in the region. The demands created by the crisis, however, have created extraordinarily high levels of needs and overwhelmed the system. Restrictive measures, in particular those related to the banking system, have further hindered the ability of the Syrian Arab Republic to purchase and pay for medicines, equipment, spare parts and software. The humanitarian exemptions notwithstanding, in practice, international private companies are unwilling to jump the hurdles put in place to transact with the Syrian Arab Republic without being accused of violating the restrictive measures, even inadvertently.

40. According to information received, before 2011, more than 90 per cent of medicines used in the Syrian Arab Republic were locally produced. Since then, economic sanctions, currency fluctuations, difficulties in obtaining hard currencies and an increase in operational costs have negatively affected the production of medicines and pharmaceutical products and made it difficult for the country to import medicines that are not locally produced, such as anticancer medicines, factor VIII, hormones and certain antibiotics. Medicines patented in the United States or Europe cannot be substituted for from other markets. As a result, the quantities of medicines currently available are limited, and they often do not cover the health needs of the population.

41. Efforts to rebuild the pharmaceutical sector are also being hindered by sanctions. The Ministry of Health noted that it is unable to obtain reference pharmaceutical standards for American and European pharmaceuticals, which prevented it from evaluating the strength and quality of locally produced products. As a result, substandard medicines were being produced.

42. The most critical concerns related to interrupted maintenance services and the lack of spare parts, which were affecting the functionality of medical equipment. WHO has undertaken several site visits to operating hospitals in the Syrian Arab Republic and found that medical equipment was often not functioning, either because it was missing critical spare parts or because of technical malfunctions that could only be corrected by authorized technicians, many of whom had left the country.

43. The WHO country office in Syria reported the recent import of computed tomography scanning machines manufactured by a Japanese company, which had components of United States origin. As a result, a specific licence had been needed, which reportedly required up to six months to obtain. In many cases, the software applications used in medical devices include content created in the United States, preventing them from being updated or repaired.

44. As a result of the comprehensive sanctions imposed on the Government of the Syrian Arab Republic, the Ministry of Health and the Ministry of Higher Education are unable to purchase medicines directly from suppliers in the European Union or the United States. During the Special Rapporteur's visit to the WHO country office and the Children's University Hospital of Damascus, numerous concerns were raised. Some medicines prohibited by sanctions have proved impossible to substitute from other sources, such as India or China. Radioactive isotopes for cancer treatment, rotavirus vaccines and specialty drugs for kidney transplants have been impossible to source. Some laboratory testing machines, including flow cyclometers, software updates and spare parts for existing western equipment are similarly unavailable. Numerous medicines were identified by WHO as unavailable on the local market, including anti-epileptic medicine and some anti-cancer

[26] Angus McDowall, "Long reach of U.S. sanctions hits Syria reconstruction", Reuters, 2 September 2018. Available at www.reuters.com/article/us-mideast-crisis-syria-sanctions/long-reach-of-u-s-sanctions-hits-syria-reconstruction-idUSKCN1LI06Z.

medicines, as well as all United States-branded products. While purchases could be made possible, each would require one or more licences from multiple jurisdictions. Without more proactive cooperation, such complications have effectively resulted in a lack of available medicines and medical capacity, and the situation is worsened by the financial embargoes imposed on the Government of the Syrian Arab Republic. Yet no mechanism or process has been established to date to allow for the cost-effective import of medicines by ministries. As a result, WHO has become the largest provider of primary health care in many parts of the Syrian Arab Republic.

Transportation issues

45. Even when medicines or other goods may be legally acquired, transporting them into the Syrian Arab Republic is difficult. Most international shipping companies avoid travelling to the Syrian Arab Republic, requiring trans-shipment through neighbouring countries. Insurance providers predominantly refuse to insure shipments. In one case, a shipping company requested that an international NGO fully indemnify it for any costs that might arise in connection with the shipment; while the indemnity was eventually limited to $1 million, it is still prohibitively expensive. The closure of Syrian airports to commercial activities prevents the import of medicines, which makes the transportation of some vaccines and other time- and temperature-sensitive drugs particularly challenging.

Dual-use goods

46. Many goods are deemed to be of dual use, which means that they could be used for both peaceful and military purposes. Examples include chlorine gas, which is traditionally used for purifying water, and water pipes and spare parts for electric generators or industrial machinery. Construction equipment and many kinds of rescue equipment are also captured under that term. Specific licences are needed for every transaction involving such goods, resulting in added costs, financing difficulties and long processing delays. It was suggested that providing a general licence for specific NGOs could be an interim solution.

Electronics

47. United States sanctions prohibiting the export to the Syrian Arab Republic of anything with 10 per cent or more of content originating from the United States have meant that almost all electronic goods, including computers and mobile smartphones with processors or software made in the United States, have been prohibited. The prevalence of Microsoft Windows on personal computers and Apple and Android operating systems on mobile phones has also meant that all sectors of the economy have been equally affected. Humanitarian actors reported concerns that United States-sourced radio telecommunications equipment, which has been in standard use across many United Nations actors, was being affected by sanctions. They also reported that the time-sensitive nature of their work was severely affected by delays in obtaining licences.

48. Government offices were observed operating with antiquated computers, which reduced operational effectiveness. This was particularly acute for the Ministry of Health and the Ministry of Higher Education, which have greater technological needs.

Heating oil supplies

49. The embargo on oil trading has not only affected the ability of the Syrian Arab Republic to export oil, but also dramatically raised the cost of fuel oil for heating, cooking and lighting. As government energy subsidies have gradually been reduced and poverty levels have increased, the situation has worsened dramatically, leaving many households unable to afford heating.

Politicization of aid delivery

50. Owing to their inability to avail themselves of humanitarian exemptions, ordinary Syrians have become dependent on aid from humanitarian organizations. The international

community has contributed hundreds of millions of dollars in humanitarian aid to the Syrian Arab Republic every year since 2011.[27] Sanction regimes, however, have all but ensured that such aid can only be delivered through the United Nations or the largest international actors, unnecessarily excluding many humanitarian NGOs, including almost all Syrian-based actors. There is no justification for preventing the State from providing basic humanitarian support and allowing the population's needs to be met through humanitarian aid only, according to the priorities of donors and aid agencies.

51. The State must respect its obligations to all Syrians and ensure that the human rights of all Syrians are being met, to the best of its ability. The prompt, non-discriminatory delivery of aid to meet the humanitarian needs of all Syrians are an obligation under international law.

52. The Special Rapporteur calls upon all parties to find solutions to ensure that aid is provided to all civilians, as required under international humanitarian law and international human rights law. Last-mile delivery could be provided by actors trusted by all sides, such as the Syrian Arab Red Crescent and, where possible, through the Government of the Syrian Arab Republic, which is ultimately responsible for ensuring that the human rights of all Syrians are met.

V. Proposals

53. The Special Rapporteur calls upon all interested Member States to engage with him to find technical solutions to reduce the impact of existing unilateral measures on human rights.

54. The most serious issue with the multiplicity of international sanction regimes is that they have effectively created a comprehensive sanction system, despite the apparent availability of humanitarian exemptions. The complexity of the current system and the uncertainty that it creates in have also effectively led to a boycott by exporters, as well as financial, insurance and transportation institutions and companies. Any solution must create sufficient certainty to allow those actors to operate in the Syrian Arab Republic.

55. To address those concerns, the Special Rapporteur proposes the establishment of a procurement office, operated by the United Nations in Damascus, which would be able to facilitate all humanitarian transactions authorized under all sanction regimes. This proposal would shift the burden of ensuring sanction regime compliance, including taking reasonable efforts to avoid diversions, thereby giving confidence to banks and exporters that the transaction in question would be considered safe by all countries that have imposed sanctions.

56. The procurement office would be assisted by experts from source countries, establishing a single point of reference for all actors, and would be responsible for ensuring coordinated compliance for financial transactions, as well as the import of goods and services to meet humanitarian needs.

57. The office could obtain approval for a new banking channel for large-scale transfers of funds. It could be used by humanitarian actors, and eventually for resilience and stabilization activities, as well as the future restoration of vital infrastructure. A further possibility would be to allow private Syrian banks to establish correspondent banking relationships with international banks through the procurement office, which could be responsible for conducting with due diligence operations with the banks and related transactions.

58. A similar idea was implemented in the Sudan at the suggestion of the current mandate holder. The United Nations-run procurement office for medicines that was thus created with the approval of the source and target countries of sanctions is an appropriate template. Although American sanctions permitted the import of medicines, financial

[27] Funding by year can be itemized through the Office for the Coordination of Humanitarian Affairs Financial Tracking Service, see https://fts.unocha.org/global-funding/overview/2018.

impediments, including the blocking of the SWIFT system for international financial transactions, effectively prevented the Sudan from paying for purchases. Through that office, exporters and financial intermediaries had certainty that the humanitarian transactions in question were not violating any unilateral coercive measures.

Confidence-building measures

59. During his visit, the Special Rapporteur was repeatedly informed of the lack of mutual trust among all parties in the Syrian Arab Republic, including international organizations, civil society, State actors and foreign States. This lack of trust has contributed to the lack of dialogue among the actors. Proposals to make the humanitarian exemption operational have been discussed since the imposition of sanctions, and concrete solutions have been identified in many studies. Yet, a first step has not been taken to date.

60. The Special Rapporteur suggests that small, simple steps could act as trust-building measures, establishing confidence on all sides that there is now a genuine will to address the survival needs of the Syrian population. One proposal would be for internationally frozen assets of the Syrian Arab Republic to be released for the use of importing agricultural goods, including wheat and animal fodder. Although this might amount to some $600,000 only, it could act as an important first step in re-establishing trust between the Government of the Syrian Arab Republic and the international community, which has been deeply undermined over the past seven years.

61. The Special Rapporteur would like to emphasize that other measures could be proposed and considered and places his good offices at the disposal of all to begin such discussions.

Future considerations

62. Under the International Covenant on Economic, Social and Cultural Rights, Syrians have the rights to food, adequate housing, safe water and sanitation, education and health care, among others. The progressive realization of those rights will require the rebuilding of schools, medical facilities, water and power infrastructure and residential homes. Much of this will not be possible without international support, and the maintenance of water and power stations often require imported spare parts and international technical expertise.

63. While coordinated legal and regulatory reforms are desirable, the differing political inclinations in each State make them an unlikely solution. The Special Rapporteur believes that the only workable solution is to create a United Nations procurement mechanism to consolidate all compliance risks into a single office.

64. That office would, in coordination with the Government of the Syrian Arab Republic, the United Nations and sanctioning States, determine which goods and services may be imported, and all transactions by exporters, financial intermediaries and contractors thereby authorized would be deemed to be in compliance with all sanction regimes. Specialists in the office would be responsible for ensuring such compliance and would collaborate with the respective authorities to address concerns, such as diversion risks. While such an office would initially be limited to responding to requests from national and international NGOs, the office should eventually be empowered to address requests relating to imports by government agencies to meet humanitarian needs.

65. As said in the beginning of the present report, humanitarian needs are immense. Without a single authority to whitelist transactions, there is no possibility of scaling up humanitarian work in any meaningful way beyond the emergency relief that is being provided by United Nations organizations. Syrians continue to have a right to education, health care, safe water, shelter and meaningful employment, and if they are denied those rights, they have told the mandate holder that they will join the flow of migrants to Europe, even if peace is fully restored. There is therefore an urgent need to identify priorities to ensure that all of areas of the Syrian Arab Republic are able to provide for the basic needs of life. Without such conditions, people will continue to emigrate, and those who return will be unable to rebuild their lives.

66. The need for a United Nations-based solution is even more apparent when considering how difficult lifting all sanctions regimes simultaneously would be, owing to the multitude of States and regulatory authorities involved. Furthermore, the secondary sanctions applied by the United States require that the sanctions regime be lifted before the chilling effect can be addressed. It is therefore preferable to seek to make use of the existing United Nations-related exemptions under the United States sanctions, if possible.

67. The Office for the Coordination of Humanitarian Affairs, in collaboration with the Government of the Syrian Arab Republic, produces regular humanitarian needs updates. Those updates should ensure that they address the full range of economic, social and cultural rights of all Syrians, and could form the basis for a broader needs assessment that could be used by the proposed procurement office to obtain the goods and services needed by the Syrian people.

VI. Conclusions and recommendations

68. **The ability of Syrians to enjoy their basic human rights and to receive humanitarian aid is being made unnecessarily difficult by an accumulation of diverse and intertwined unilateral coercive measure regimes. The multiplicity of regimes and regulatory actors has increased the costs and the complexity of compliance beyond the ability of all but the largest humanitarian actors. Scarce resources that should be targeted towards the Syrian people have instead been spent navigating exemptions to sanctions, resulting in increased costs and delays.**

69. **The time has come to reconsider whether the enjoyment of the basic human rights of the Syrian people is adequately considered in the application of unilateral coercive measures. While legal mechanisms for the delivery of humanitarian aid exist, in practice, they are overly limited, slow and difficult to apply for all but the largest actors. Restrictions are especially pernicious in that they cause suffering that increases over time, but often escapes notice in the international media.**

70. **There is a pressing need to lift all sanctions that have a negative impact on the enjoyment of human rights of Syrians. Unilateral coercive measures on agricultural inputs and products, medicines, many dual-use items related to water and sanitation, public electricity and transportation that eventually impede the reconstruction of schools, hospitals and other public buildings and the restoration of services are increasingly difficult to justify, if they ever were.**

71. **While much has been done to provide guidance and clarity on how to navigate sanctions against the Syrian Arab Republic through information published on government websites, it remains that United States sanctions are applied by a number of different authorities, and that obtaining an exemption to European Union sanctions requires negotiations in Brussels as well as with European Union States with a representation in Beirut. Despite improvements, the guidance is not legally binding, while any violation, inadvertent or otherwise, is strictly punished by United States authorities. Those risks are compounded by uncertainty on how to comply with sanction regimes of six additional countries, the League of Arab States and the regulatory agencies of certain European Union member States. This degree of complexity is unreasonable to manage for all but the largest of organizations, exporters and financial companies. Furthermore, any organization that is able to obtain a licence to import goods will be able to charge far higher prices owing to the lack of any alternative supplier.**

72. **The Special Rapporteur is concerned that ongoing discussions related to the return to the Syrian Arab Republic of refugees and migrants are not addressing the need to ensure that the conditions exist for their basic human rights to be met. This includes the availability of adequate shelter, food, water and sanitation, employment, medical care and education. To the extent that the availability of such rights is being impaired, directly or indirectly, by sanctions, they must be addressed.**

Universality of human rights

73. **The Special Rapporteur reasserts that human rights are universal and interdependent. The right to food, health, education, water and sanitation and adequate housing must be provided to all without discrimination, as called for in the International Covenant on Economic, Social and Cultural Rights.**

74. **The Special Rapporteur calls upon the Government of the Syrian Arab Republic to realize to the best of its ability, under the circumstances, the human rights of all Syrians without discrimination, as called for under the International Covenant on Economic, Social and Cultural Rights. Syrians have, among others, the right to food, adequate housing, safe water and sanitation, education and health care. The progressive realization of those rights will require the rebuilding of schools, medical facilities, water and power infrastructure and homes.**

75. **Similarly, sanction regimes must not impede the delivery of goods or services provided for the realization of the human rights of Syrians, and those goods or services should be provided to all Syrians, without discrimination. In the light of the above, the Special Rapporteur would like to offer the following recommendations.**

76. **The Special Rapporteur recommends the creation of a specialized United Nations procurement office with full authority to obtain humanitarian goods and services in compliance with all unilateral coercive measures and to ensure the related transfers of payment, as well as to address the chilling effect that has made financing, transportation and insurance with respect to permitted humanitarian goods and services unavailable in the Syrian Arab Republic. In collaboration with all parties concerned, the office should be used to meet the human rights needs of all Syrians.**

77. **The Special Rapporteur recommends that, until such a procurement mechanism is established, source countries immediately implement the recommendations of two studies prepared for the Economic and Social Commission for Western Asia, in 2016 and 2017, which provide workable, concrete solutions to make existing humanitarian exemptions under unilateral coercive measure regimes more effective.**

78. **The Special Rapporteur recommends that all parties identify confidence-building measures that can work to re-establish trust. One example could be the release of frozen assets of the Syrian Arab Republic for the purchase of agricultural products, including wheat and animal fodder, to address the urgent survival needs of the population.**

79. **Finally, the Special Rapporteur recommends that all Member States concerned, in collaboration with the United Nations, begin to identify the priority humanitarian and human rights needs of the Syrian people, with a view to progressively including related goods and services in the measures that the proposed procurement office, or any other potential solution, may import into the Syrian Arab Republic. Goods and services related to the provision of shelter, water and sanitation, education, health and electricity should be identified as a priority.**